PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference A401000WO	FOR FURTHER ACTION	See Form PCT/IPEA/416					
International application No.	International filing date (day/month/year)	Priority date (day/month/year)					
PCT/EP2004/003162	25.03.2004	14.04.2003					
International Patent Classification (IPC) or nation	onal classification and IPC						
Applicant FASALEX GMBH							
 This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 							
This REPORT consists of a total of _		ng this cover sheet.					
3. This report is also accompanied by Al	NNEXES, comprising:						
a. (sent to the applicant and	to the International Bureau) a total of 3	sheets, as follows:					
sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).							
sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.							
b. (sent to the International I	Bureau only) a total of (indicate type and numl	per of electronic carrier(s))					
	, containing a sequence listing and/or tables						
related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).							
4. This report contains indications relations	ng to the following items:						
Box No. I Basis of the	report						
Box No. II Priority							
Box No. III Non-establi	shment of opinion with regard to novelty, inve	ntive step and industrial applicability					
Box No. IV Lack of unit	ty of invention						
Box No. V Reasoned st	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement						
Box No. VI Certain documents cited							
Box No. VII Certain defe	ects in the international application	application					
Box No. VIII Certain obs	ervations on the international application						
Date of submission of the demand	Date of completion of	this report					
Name and mailing address of the IPEA/EP	Authorized officer						
Facsimile No.	Telephone No.	Telephone No.					

Translation

International application No.
PCT/EP2004/003162

Box	No. I Basis of the report	
1.	With regard to the language, this report is be indicated under this item.	ased on the international application in the language in which it was filed, unless otherwise
	This report is based on translations fro which is the language of a translation international search (Rule 12.3 a publication of the international a international preliminary examin	nd 23.1(b)) pplication (Rule 12.4)
2.		onal application, this report is based on (replacement sheets which have been furnished to the n under Article 14 are referred to in this report as "originally filed" and are not annexed to
	this report): the international application as originate the description:	lly filed/furnished
	pages 1-11	as originally filed/furnished
	pages*	received by this Authority on received by this Authority on
	the claims:	
		as originally filed/furnished
	•	as amended (together with any statement) under Article 19
	nos.* 1-10	received by this Authority on 09.06.2005 with letter of 07.06.2005
	nos.*	received by this Authority on
	the drawings: sheets sheets*	as originally filed/furnished
	sheets*	received by this Authority on received by this Authority on
		able(s) – see Supplemental Box Relating to Sequence Listing.
3.	The amendments have resulted in the	
). 	the description, pages	cancenation of.
	the claims nos	
	the sequence listing (specify):	
	any table(s) related to sequence	
4.		(some of) the amendments annexed to this report and listed below had not been made, since and the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
	the description, pages	
	the claims, nos. 1,9	
		listing (specify):
<u> </u>	If item 4 applies, some or all of those sheet	s may be marked "superseded."

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	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement			
Statement				
Novelty (N	D)	Claims		YES
		Claims	1-10	NO
Inventive s	step (IS)	Claims		YES
		Claims	1-10	NO
Industrial	applicability (IA)	Claims	1-10	YES
		Claims		NO
	Novelty (N	Statement Novelty (N) Inventive step (IS) Industrial applicability (IA)	Novelty (N) Claims Claims Inventive step (IS) Claims Claims Claims Claims	Novelty (N) Claims

This report makes reference to the following documents:

- D1: WO 95/04111 A (RETTENBACHER MARKUS; MUNDIGLER NORBERT (AT)), 9 February 1995 (1995-02-09)
- D2: WO 03/008494 A (RETTENMAIER & SOEHNE GMBH & CO; RETTENMAIER JOSEF OTTO (DE)), 30 January 2003 (2003-01-30)
- D3: DE 41 21 085 A (AGENCY IND SCIENCE TECHN; OKURA DENKI CO LTD (JP)), 2 January 1992 (1992-01-02)
- D4: AT 01682 2001 A (RETTENBACHER MARKUS), 15 January 2003 (2003-01-15)
- 1. The subject matter of claims 1-10 is not novel (PCT Article 33(2)) over documents D1-D4 (see the passages cited in the search report), which disclose non-expanded mouldings made of fibrous materials such as cellulose or wood fibres, biopolymers such as starch, lignin (contained in wood fibres) or chitosan and synthetic resins such as aldehyde resin, polypropylene or polyurethane, as well as their production process. The resin acids of D1 can be sorted into the additive categories of the plasticisers, bonding agents or parting agents mentioned in the application. The resin acids may

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

also act as thermal and/or UV stabilisers and antioxidising agents (because of the double bonds). The wood fibres in D2 contain at least two water-binding biopolymers: lignin and cellulose. The foils of D3 were naturally produced under pressure (i.e. atmospheric pressure). Pressures higher than atmospheric pressure are generally designated by the clear term of overpressure (PCT Article 6). With regard to the teaching of D4, it should be noted that the mouldings would automatically possess the water contents according to the application because of the influence of the normal ambient humidity.

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Box	No. VI	Certain documents cited				
1.	Certain pub	lished documents (Rule 70.10)				
		Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)	
	WO	03/035373	01.05.2003	18.10.2002	23.10.2001	
2.	Non-writte	n disclosures (Rule 70.9)				
		Kind of non-written disclosure	Date of non-written d (day/month/yea	isclosure referr	Date of written disclosure referring to non-written disclosure (day/month/year)	
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Supplemental Box

In case the space in any of the preceding boxes is not sufficient. Continuation of:

BOX I

The amendments submitted with the letter of 7 June 2005 introduce substantive matter which goes beyond the original disclosure in the international application as filed, thereby contravening PCT Article 34(2)(b). This concerns the following amendments:

- 1. The inclusion in claim 1 of the application of the phrase, "'immediately after its production', it has a water content of ... " Neither the application in general nor the examples in the application contain any indication of the moment when the humidity content of the moulding is determined. On page 3, paragraph 3, of the application, it is stated that the mouldings according to the application must always have (not only immediately after their production) a water content of more than 8.0% by weight. Moreover, this added feature represents a process feature rather than a product feature, since mouldings made of fibrous materials of plant or animal origin tend to absorb humidity from the ambient air up to a point of equilibrium, which generally lies over 8.0% by weight. Thus it appears to be impossible to determine in a clearcut manner what was the water content of any moulding made of fibrous materials of plant or animal origin immediately after its production.
- 2. The inclusion of the plastic materials mentioned in the original claim 4 in claims 1 and 9 of the application, without the associated quantity indications; see also page 4, paragraph 2, of the application.